



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rosa H. Birjandi et al
Serial No.: 10/033,103
Filing Date: October 25, 2001
Art Unit: 3627
Confirmation No.: 7720
Title: **REDISTRIBUTION OF PARTS IN A
DISTRIBUTION NETWORK**

Mail Stop Petitions
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

**NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW
HOLDING OF ABANDONMENT**

This petition is filed in response to notification by the U.S. Patent and Trademark Office that the above-referenced patent application has been abandoned for failure to file a timely and proper Response to the Office Action mailed May 14, 2004 which set a one month period for reply.

On June 14, 2004, Applicants filed a Response to the above-referenced Office Action mailed May 14, 2004. Therefore, Applicants believe the Notice of Abandonment for failing to respond to the above-referenced Office Action is improper.

This Petition under 37 C.F.R. § 1.181 is to request that the holding of abandonment be withdrawn. The required documents are provided in support of this petition:

1. Copy of the Notice of Abandonment mailed December 27, 2004.
2. Copy of Office Action mailed May 14, 2004.
3. Copy of Applicants' Response to Office Action mailed May 14, 2004.

4. Copy of the Patent and Trademark Office's date-stamped return postcard which indicates receipt of Response on June 14, 2004.

As the abandonment of this case was through no fault of Applicants, Applicants believe that no fees are due. However, if it is determined that a petition fee or any additional fees are due, please charge these fees to Baker Botts L.L.P. Deposit Account No. 02-0384.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



Christopher W. Kennerly
Reg. No. 40,675

Date: 1/4/05

CORRESPONDENCE ADDRESS:
CUSTOMER NO. 05073

2001 Ross Avenue, Suite 600
Dallas, Texas 75201
214.953.6812



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,103	12/27/2004	Rosa H. Birjandi	020431.0780	7720

7590 12/27/2004
Christopher W. Kennerly
Baker Botts L.L.P.
Suite 600
2001 Ross Avenue
Dallas, TX 75201-2980

EXAMINER

RUDY, ANDREW J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Notice of Abandonment

Application No.

10/033,103

Examiner

Andrew Joseph Rudy

Applicant(s)

BIRJANDI ET AL.

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 14 May 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
5. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,103	10/25/2001	Rosa H. Birjandi	020431.0780	7720

EXAMINER
RUDY, ANDREW J

ART UNIT	PAPER NUMBER
3627	

7590 05/14/2004
Christopher W. Kennerly
Baker Botts L.L.P.
Suite 600
2001 Ross Avenue
Dallas, TX 75201-2980

*Election/Restriction
Due: June 14, 2004*

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Docket ☒ Wrapper ☒
RVF Docketed N/A
Reference(s) —

Office Action Summary



Application No.

10/033,103

Applicant(s)

BIRJANDI ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

NR

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6 and 20, drawn to a method for redistributing parts, classified in class 705, subclass 7.
 - II. Claims 7-12, drawn to a computer implemented system for redistributing a part, classified in class 705, subclass 28.
 - III. Claims 13-18, drawn to logic, classified in class 707, subclass 10.
 - IV. Claim 19, drawn to a system for redistributing parts, classified in class 705, subclass 10.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II, III, IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process can be practiced by hand.
3. Inventions II, IV and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions II and III have separate utility such as a computer system or logic used in point-of-sale inventory analysis systems. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, III or IV, restriction for examination purposes as indicated is proper.
6. This application contains claims directed to the following patentably distinct species of the claimed invention: Claims 1 and 20.

If Group I is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. A telephone call was made to Mr. Christopher W. Kennerly (Reg. No. 40,674) on May 5, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Joseph Puly

The "Received" stamp of the Patent and Trademark Office imprinted hereon acknowledges the filing of:

Total Pages		Total Pages	
<input type="checkbox"/> New Appln.; C.P.A.; Con.; CIP.; Div.;		<input type="checkbox"/> Mo. Extension of Time	
<input type="checkbox"/> Provisional; Converted Provisional		<input type="checkbox"/> Notice of Appeal	
(Specification, Claims, Abstract)		<input type="checkbox"/> Appeal Brief	
<input type="checkbox"/> Bibliographic Data Sheet		<input type="checkbox"/> Issue Fee Transmittal	
<input type="checkbox"/> Declaration/power of Attorney		<input type="checkbox"/> Check No. _____ Amt: _____	
<input type="checkbox"/> Assignment		<input type="checkbox"/> Check No. _____ Amt: _____	
<input type="checkbox"/> Verified Statement		<input checked="" type="checkbox"/> Serial No. <u>10/033,103</u>	
<input type="checkbox"/> Formal Drawing		<input checked="" type="checkbox"/> Other <u>Post Card - 1</u>	
<input type="checkbox"/> Informal Drawings			
<input checked="" type="checkbox"/> Amendment/Response <u>to previous</u>			
<u>Reassignment</u>			
Name of Inventor(s): <u>Rosa V. Birjandi et al.</u>		Receipt Date & Serial No:	
Title of Invention: <u>Redistribution of Parts in a Distribution...</u>			
Client or Applicant: <u>it technologies us</u>	BB File No.: <u>020431-0780</u>		
Mailed: <u>6/14/04</u>	Certificate of Mailing		
Due: <u>6/14/04</u>	Express Mail <input checked="" type="checkbox"/>		
Atty/Secy: <u>CWK/b+</u>	Receipt No.: <u>EV 324643983415</u>		
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rosa H. Birjandi, et al.
Serial No.: 10/033,103
Filing Date: October 25, 2001
Art Unit: 3627
Examiner: Andrew J. Rudy
Confirmation No.: 7720
Title: Redistribution of Parts in a Distribution Network

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

"EXPRESS MAIL"

Express Mailing Label Number

EV 324643983 US

Date of Deposit June 14, 2004.

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Willie Jiles

Willie Jiles

Response to Office Action containing Restriction Requirement

In response to the Office Action mailed May 14, 2004, Applicants elect Group II (Claims 7-12) for prosecution on the merits in the above-identified Application. This election is made to expedite issuance of a patent from this Application. Applicants do not necessarily agree with or acquiesce to the Examiner's conclusions reflected in the Office Action. Applicants have withdrawn Group I (Claims 1-6 and 20), Group III (Claims 13-18), and Group IV (Claim 19) without prejudice or disclaimer for prosecution in a divisional application if necessary. Applicants have also amended Claims 7-12 to clarify the nature of the recited computer-implemented system.

In the Claims

Please amend the claims as follows.

1. (Withdrawn) A method for redistributing a plurality of parts, comprising:
defining a plurality of locations;
establishing an actual inventory of a plurality of parts among the locations;
establishing a desired allocation of the parts among the locations;
determining a demand for the parts at each location using the actual inventory and the desired allocation;
determining a plurality of paths, a path being operable to transfer an excess part from one location to another location;
generating a transfer function describing a cost of transferring the excess part along the paths; and
optimizing the transfer function to achieve the desired allocation of the excess parts at a minimum cost.
2. (Withdrawn) The method of Claim 1, wherein:
the transfer function describes the cost associated with transferring a part along a plurality of alternative paths.
optimizing the transfer function comprises minimizing the transfer function.
3. (Withdrawn) The method of Claim 1, wherein determining the paths comprises sending a notification if there is no path between one location and any of the other locations.
4. (Withdrawn) The method of Claim 1, wherein establishing the desired allocation comprises calculating an optimized allocation of the excess parts among the locations.
5. (Withdrawn) The method of Claim 1, further comprising adding a dummy location with an associated demand and an infinite transfer cost.

6. (Withdrawn) The method of Claim 1, further comprising satisfying a constraint requiring that the parts transferred to a location and the parts transferred from the location satisfy the demand for the parts at the location.

7. (Currently Amended) A computer-implemented system for redistributing a part, comprising ~~a server associated with~~ one or more processing units operable to execute one or more software components ~~collectively operable to~~:

- define a plurality of locations;
- establish an actual inventory of a plurality of parts among the locations;
- establish a desired distribution of the parts among the locations;
- determine a demand for the parts at each location using the actual inventory and the desired distribution;
- determine a plurality of paths, a path being operable to transfer a part from one location to another location;
- generate a transfer function describing a cost of transferring a plurality of excess parts along the paths; and
- optimize the transfer function to achieve the desired distribution of the parts at minimum cost.

8. (Currently Amended) The system of Claim 7, wherein:
the transfer function describes the cost being associated with transferring a part along a plurality of alternative paths; and
the one or more processing units are operable to execute the one or more software components ~~are further operable~~ to optimize the transfer function by minimizing the transfer function.

9. (Currently Amended) The system of Claim 7, wherein the one or more processing units are operable to execute the one or more software components ~~are further operable~~ to determine the paths by sending a notification if there is no path between one location and another location.

10. (Currently Amended) The system of Claim 7, wherein the one or more processing units are operable to execute the one or more software components ~~are~~ further ~~operable~~ to establish the desired distribution by calculating an optimized distribution of the excess parts among the locations.

11. (Currently Amended) The system of Claim 7, wherein the one or more processing units are operable to execute the one or more software components ~~are~~ further ~~operable~~ to add a dummy location with an associated demand and an infinite transfer cost.

12. (Currently Amended) The system of Claim 7, wherein the one or more processing units are operable to execute the one or more software components ~~are~~ further ~~operable~~ to satisfy a constraint requiring that the parts transferred to a location and the parts transferred from the location satisfy the demand for the parts at the location.

13. (Withdrawn) Logic embodied in a computer-readable medium and when executed by a computer operable to:

define a plurality of locations;

establish an actual inventory of a plurality of parts among the locations;

establish a desired allocation of the parts among the locations;

determine a demand for the parts at each location using the actual inventory and the desired allocation;

determine a plurality of paths, a path being operable to transfer a part from one location to another location;

generate a transfer function describing transferring a plurality of excess parts along the paths; and

optimize the transfer function to achieve the desired allocation of the excess parts at a minimum cost.

14. (Withdrawn) The logic of Claim 13, wherein:

the transfer function describes a cost associated with transferring the excess parts along a plurality of alternative paths; and

the logic further operable to optimize the transfer function by minimizing the transfer function.

15. (Withdrawn) The logic of Claim 13, wherein the logic is further operable to determine the paths by sending a notification if there is no path between one location and another location.

16. (Withdrawn) The logic of Claim 13, wherein the logic is further operable to establish the desired distribution by calculating an optimized allocation of the excess parts among the locations.

17. (Withdrawn) The logic of Claim 13, wherein the logic is further operable to add a dummy location with an associated demand and an infinite transfer cost.

18. (Withdrawn) The logic of Claim 13, wherein the logic is further operable to satisfy a constraint requiring that the parts transferred to a location and the parts transferred from the location satisfy the demand for the parts at the location.

19. (Withdrawn) A system for redistributing a part, comprising:
means for defining a plurality of locations;
means for establishing an actual inventory of a plurality of parts among the locations;
means for establishing a desired allocation of the parts among the locations;
means for determining a demand for the parts at each location using the actual inventory and the desired allocation;
means for determining a plurality of paths, a path being operable to transfer a part from one location to another location;
means for generating a transfer function describing a cost of transferring a plurality of excess parts along the paths; and
means for optimizing the transfer function to achieve the desired allocation of the excess parts at a minimum cost.

20. (Withdrawn) A method for redistributing a part, comprising:

- defining a plurality of locations;
- establishing an actual inventory of a plurality of parts among the locations;
- establishing an optimized allocation of the parts among the locations;
- determining a demand for a part at each location using the actual inventory and the optimized allocation;
- determining a plurality of paths, a path being operable to transfer a part from one location to another location;
- generating a transfer function cost being associated with transferring a part along a plurality of alternative paths;
- satisfying a constraint requiring that the parts transferred to a location and the parts transferred from the location satisfy the demand for the parts at the location; and
- minimizing the transfer function to achieve the desired allocation of a plurality of excess parts at a minimum cost.

Conclusion

Applicants respectfully request full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this Application in any way, the Examiner is invited to contact Christopher W. Kennerly, Attorney for Applicants, at the Examiner's convenience at (214) 953-6812.

Applicants believe that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Christopher W. Kennerly
Reg. No. 40,675

CWK/bt
Correspondence Address:

Customer No.:

05073

Date: 6-14-2004

ATTORNEY DOCKET NO.
020431.0780



01/12/05

PATENT APPLICATION
10/033,103

DAE
ITW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rosa H. Birjandi et al
Serial No.: 10/033,103
Filing Date: October 25, 2001
Art Unit: 3627
Confirmation No.: 7720
Title: **REDISTRIBUTION OF PARTS IN A
DISTRIBUTION NETWORK**

Mail Stop Petitions
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that the attached Non-Fee Petition Under C.F.R. § 1.181 To Withdraw Holding Of Abandonment is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on this 11th day of January, 2005, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Willie Jiles

Willie Jiles

Express Mail Receipt
No. EV 323313518 US